

Sanford Jay Rosen, State Bar No. 62566
Maria V. Morris, State Bar No. 223903
Lori E. Rifkin, State Bar No. 244081
ROSEN, BIEN & GALVAN, LLP
315 Montgomery Street, Tenth Floor
San Francisco, CA 94104
Telephone: (415) 433-6830
Facsimile: (415) 433-7104
srosen@rbg-law.com

[Additional Counsel Listed on Following Page]

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO/OAKLAND DIVISION

CLAUDE BRYANT, CRAIG FULCHER,
SANFORD LEVINE and THOMAS
THOMPSON,
on behalf of themselves
and all employees similarly situated,

Plaintiffs,

- vs -

ALDERWOODS GROUP, INC., PAUL A.
HOUSTON, SERVICE CORPORATION
INTERNATIONAL, SCI FUNERAL AND
CEMETERY PURCHASING
COOPERATIVE, INC., SCI EASTERN
MARKET SUPPORT CENTER, L.P., SCI
WESTERN MARKET SUPPORT CENTER,
L.P. a/k/a SCI WESTERN MARKET
SUPPORT CENTER, INC., SCI HOUSTON
MARKET SUPPORT CENTER, L.P., and
JOHN DOES 1-3,

Defendants.

Case No. CV 07-5696 SI

**DECLARATION OF ANNETTE
GIFFORD IN SUPPORT OF
PLAINTIFFS' ADMINISTRATIVE
MOTION FOR AN EXTENSION OF
TIME TO RESPOND TO
DEFENDANTS' MOTION TO
DISMISS AND FOR A MORE
DEFINITE STATEMENT (Docket
No. 43) and DEFENDANTS'
MOTION TO DISMISS (Docket No.
47)**

1 Additional Attorneys for Plaintiffs, who will
2 submit applications for admission *pro hac vice*:

3 J. Nelson Thomas, NY Attorney No. 2579159
4 Patrick J. Solomon, NY Attorney No. 2716660
5 Michael J. Lingle, NY Attorney No. 3925765
6 Annette Gifford, NY Attorney No. 4105870
7 Justin Cordello, NY Attorney No. 4131447
8 DOLIN, THOMAS & SOLOMON LLP
693 East Avenue
Rochester, NY 14607
Telephone: (585) 272-0540
Facsimile: (585) 272-0574
nthomas@theemploymentattorneys.com

9 Charles H. Saul, PA State Bar No. 19938
10 Liberty J. Weyandt, PA State Bar No. 87654
11 Kyle T. McGee, PA State Bar No. 205661
12 MARGOLIS EDELSTEIN
13 525 William Penn Place
Suite 3300
Pittsburgh, PA 15219
Telephone: (412) 281-4256
Facsimile: (412) 642-2380
csaul@margolisedelstein.com

1 I, Annette Gifford, under penalty of perjury, declare:

2 1. I am associated with the law firm Dolin, Thomas & Solomon LLP, lead
3 counsel for Plaintiffs in this action, and, as such, I am fully familiar with the facts and
4 circumstances giving rise to this motion. I submit this Declaration in support of Plaintiffs'
5 Administrative Motion for an Extension of Time to Respond to Defendants' First Motion
6 to Dismiss Amended Complaint, First Motion for More Definite Statement filed by
7 Alderwoods Group, Inc. ("Alderwoods"), SCI Funeral and Cemetery Purchasing
8 Cooperative, Inc., and SCI Western Market Support Center, L.P. (Docket No. 43) and
9 Defendants' First Motion to Dismiss Amended Complaint filed by Service Corporation
10 International ("SCI"), SCI Eastern Market Support Center, L.P., SCI Houston Market
11 Support Center, L.P. and Paul A. Houston (Docket No. 47) (collectively, "Defendants'
12 Motions"). The facts contained herein are based upon my own personal knowledge, and if
13 called to do so, I could and would competently testify to their truth.

14 2. This Court has previously ruled that the instant action ("*Bryant I*") is related
15 to two other pending actions, *Helm, et al. v. Alderwoods Group, Inc., et al.*, Case No. 08-
16 1184-SI ("*Helm*") and *Bryant, et al. v. Service Corporation International, et al.*, Case No.
17 08-1190-SI ("*Bryant II*"). See *Bryant I*, Docket Nos. 35 and 38.

18 3. The instant action is a class action lawsuit brought by current and former
19 employees of defendants who worked at funeral locations managed by defendants for
20 violations of the federal Fair Labor Standards Act. The related matters, *Helm* and *Bryant*
21 *II*, assert similar claims under various state wage and hour laws, as well as other state
22 laws—although plaintiffs note that, while the instant action and the *Helm* action both assert
23 the claims of current or former employees of defendant Alderwoods, the *Bryant II*
24 plaintiffs include only those employees who worked for subsidiaries of defendant SCI
25 other than Alderwoods.

26 4. Currently, a case management conference in the instant action is scheduled
27 for Monday, April 7, 2008 (the "Conference"). See *Bryant I*, Docket No. 39. Plaintiffs
28 moved this Court to continue this conference until after a decision regarding plaintiffs

1 motions to remand in the related *Helm* and *Bryant II* matters. *Bryant II*, Docket No. 40.
2 Defendants have opposed that motion. *Bryant II*, Docket No. 58.

3 5. On March 18, 2008, this Court issued an Order to Show Cause indicating
4 that the Court intends to consider at the Conference the issue of whether any of the three
5 related matters should be transferred to the Western District of Pennsylvania. *See Bryant I*,
6 Docket No. 37; *Bryant II*, Docket No. 32.

7 6. Plaintiffs continue to believe, as asserted in their motion to continue the case
8 management conference, that this Court must determine the threshold issue of its
9 jurisdiction over the state law claims asserted in *Helm* and *Bryant II* before it determines
10 whether those matters should be transferred to another federal district court and, thus, that
11 the discussion of transfer at a case management conference should be continued until a
12 ruling on that motion.

13 7. On March 28, 2008, the parties filed a joint Response to Order to Show
14 Cause in which both parties agreed that the instant *Bryant I* action should be transferred to
15 the Western District of Pennsylvania. *Bryant II*, Docket No. 56. The parties disagreed
16 regarding the potential transfer of *Helm* and *Bryant II*.

17 8. Plaintiffs submit that a single Case Management Conference addressing all
18 transfer and management issues for all three related cases would be most efficient, but that
19 such a conference may be properly held only after this Court's ruling on the Motions for
20 Remand in the related matters.

21 9. Defendants' Motions were filed on March 27, 2008. Defendants selected a
22 hearing date of May 9, 2008 for Defendants' Motion—the same date that plaintiffs
23 Motions for Remand are currently scheduled to be heard in the *Helm* and *Bryant II* actions.
24 Currently, plaintiffs' responses to Defendants' Motions are due April 18, 2008. Plaintiffs
25 request an extension of their time to respond to Defendants' Motions to 14 days after this
26 Court's determination regarding the transfer of this matter, should this Court retain the
27 matter in this forum. In the event that the matter is transferred, the receiving Court would
28 establish its own hearing and response dates.

12. There have been no previous time modifications in this case, whether by stipulation or Court order. In a separate Administrative Motion, plaintiffs have requested similar relief with respect to defendants' currently pending motions, also on grounds that this Court must determine the threshold issue raised in the motions for remand prior to determining those pending motions.

Executed this 1st day of April, 2008 in Rochester, New York.

3

DECL. OF ANNETTE GIFFORD ISO PLS' ADMIN MOT FOR EXTENSION OF TIME Case No. CV 08-1190 SI